

May 14, 2002 SEC Invites Opinion from the General Public on the Proposed Amendments in the Companies (Invitation and Acceptance of Deposits) Rules 1987

The Securities and Exchange Commission of Pakistan (SEC) has taken yet another important step to save the small savers/investors by bringing the real estate developers, colony developers and automobile suppliers companies under its regulatory purview.

The step has been taken on persistent demand of the public who have allegedly been cheated and deprived of their life-long savings by such companies who received advance payments from general public on the promise of providing developed plots, constructed houses or motor vehicle but did not fulfill their commitments.

To achieve this objective the Companies (Invitation and Acceptance of Deposits) Rules, 1987, which were prescribed under section 88 of the Companies Ordinance, 1984 to regulate the deposits collected by companies, are being amended. The existing rules do not apply to loans, finance security deposits, earnest money, advances of every kind, including advances against supply of goods or property. Now, amendment has been proposed to bring within the ambit of the said rules, the amount collected through a scheme advertised on the media as an advance by the companies engaged in the business of real estate development and colonies organization, and also by automobile companies or other persons against the promise to supply the property or commodity at some future date.

The amendments in the rules have been considered necessary after several complaints received from the aggrieved general public who have allegedly lost their money and could not get the developed plots, constructed house and motor vehicles in accordance with the commitments of the companies which had succeeded in collecting the huge amounts of money through attractive advertisements. It is hoped that after having the power to regulate such deposits, the Commission would be able to safeguard the interest of general public adequately.

The Section 88 of the Companies Ordinance, 1984 provides that,

- (1) The Federal Government may prescribe the limits up to which, the manner in which and the conditions subject to which deposits may be invited, accepted or retained by a company.
- (2) No company shall invite, or allow any other person to invite or cause to be invited on its behalf, any deposit unless
 - (a) such deposit is invited or is caused to be invited in accordance with the rules made under sub-section (1) ; and

(b) an advertisement, including therein a statement showing the financial position of the company, has been issued by the company in such form and in such manner as may be prescribed.

(3) The provisions of this Ordinance relating to a prospectus shall, so far as may be, apply to an advertisement referred to in sub-section(2).

(4) Where a company accepts or invites, or allows or causes any other person to accept or invite on its behalf, any deposit in excess of the limits prescribed under sub-section (1) or in contravention of the manner or conditions prescribed under that sub-section or in contravention of the provisions of sub-section (2), as the case may be,

(a) the company shall be punishable,

(i) where such contravention relates to the acceptance of any deposit, with fine which shall not be less than the amount of the deposits so accepted ; and

(ii) where such contravention relates to the invitation for any deposit, with fine which may extend to twenty thousand rupees ; and

(b) every officer of the company which is in default shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine.

The Commission has elicited opinion from the general public on the proposed amendments which have been published in the official Gazette and also placed on the SEC website (www.secp.gov.pk). Members of the public and other parties concerned have been invited to forward their comments and views to the Commission within fourteen days.